

## New law changes process for agricultural liens

Beginning January 1, 2010, all UCC filings pertaining to liens on agricultural products and equipment will no longer be accepted at circuit clerk offices. All UCC financing statements will be filed with the Secretary of State's office.

The only exception will be UCC filings related to farm-stored commodity loans financed by the Commodity Credit Corporation of USDA. The farm-stored commodity filings will continue to be filed at the circuit clerk's office until December 31, 2012. After that date, these filings will also be centralized at the Secretary of State's office.

Financing statements currently on file in the circuit clerk's office will remain effective until they are terminated or automatically lapse. If the statements need to be

continued, the continuation will be made at the Secretary of State's office.

This provision of the law will ensure no person's secured interest will be extinguished unbeknownst to them. However this also means, in some cases, lien searchers will have to examine both the county and state records until the lapse period has expired on county filings.

Act 942 of 2009 made the above changes to the secured transaction section of the Uniform Commercial Code (UCC). Revised Article 9 was passed in Arkansas in 2001. This change in the UCC law will make Arkansas's law uniform with all the other states in the union, in regard to the centralized filing of agricultural-related liens.

*See LIENS, page 2*



*Secretary of State Charlie Daniels*

This issue of Arkansas, Inc., contains a wide range of information: legislation affecting our UCC division, a consumer alert for businesses in Arkansas, a new fall schedule for training notaries public and much more.

Under new legislation effective July 1, 2009, it is now a criminal offense to file fraudulent Uniform Commercial Code (UCC) financing statements. In that same vein, Act 942 impacts agriculture-related UCC filings beginning January 1, 2010. Both these acts passed in the 2009 Session of the General Assembly.

I am very concerned that bogus claims have been made in recent months by out of state companies trying to scare Arkansas business owners into paying them for services that are not necessary under Arkansas state law. There are always new schemes and scams,

*(See LETTER, page 2)*



The Business and Commercial Services division hosted several interns during the summer months. Pictured are, left to right: (front row) Megan Childress, Megan Hollowell, Shaneka Smith, BCS Director Charolett Martin, Secretary of State Charlie Daniels, Seyanna Stephens, Federica Gill; (back row): Mitchell Dedman, Eugene Brannon, Ryan Green, Rowan Phillips, Lillie Peterson, Scott Carnes and Andréa Mack. Not pictured are Joya Hampton, Gabrielle Mays, Ryan Higgins and Greg Steinsiek.

## Corporate filings down, franchise tax revenues up last fiscal year

Franchise tax revenues received in the 2009 fiscal year exceeded the 2008 year, providing an increase of approximately \$2 million in the annual contribution to the Education Adequacy Fund.

This fund was established by Arkansas Code 26-54-104.

Affected monies are deposited into the state's general fund and the

Education Adequacy Fund, providing money for public schools, higher education, health and human services and other governmental services.

Overall new corporate filings have decreased in Arkansas. As shown in the graph below, there were 1,640 fewer corporate filings online alone in the last fiscal year as compared to the year before.

BCS has found that more Arkansas entities are using electronic automation options.

Online franchise tax payments show an increase of 28.3 percent between the 2008 and 2009 fiscal year. This trend seems to continue annually as BCS monitors and records daily and yearly statistics.

As always the BCS representatives are available to assist clients with any questions or concerns they may have on filings or reports due in Arkansas.

### *LIENS, continued from page 1*

The Secretary of State is currently drafting transition procedures, rules and forms for the implementation of this law change.

To obtain a copy of the proposed rules or to be placed on the mailing list to receive a copy of the rules, please contact the Secretary of State's legal office at 501-682-3012.

E-mail requests should be sent to [stephen.hollowell@sos.arkansas.gov](mailto:stephen.hollowell@sos.arkansas.gov).

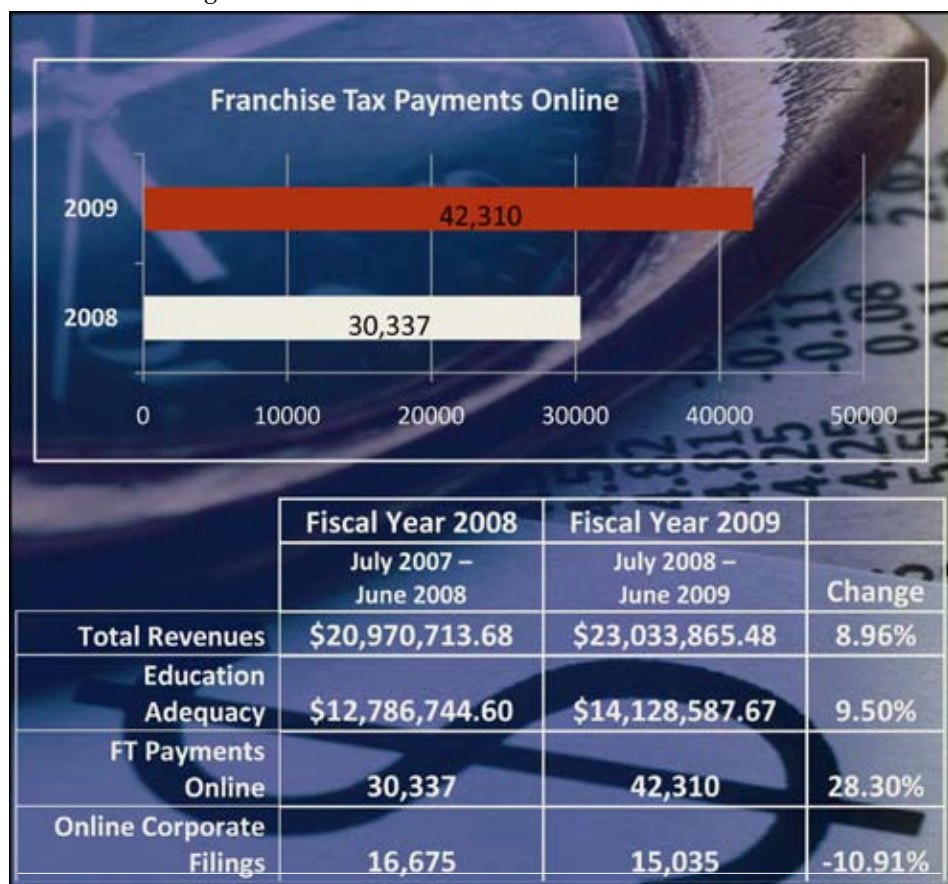
### *LETTER, continued from page 1*

and the Arkansas Attorney General's office recently issued a consumer alert to Arkansas businesses. You'll find more information on page 3.

Each summer my office takes great pride in teaching business skills and awareness of state government to young Arkansans through our internship program. It gives the interns an opportunity to experience our professional environment.

Be sure to review the new notary class schedule for this fall. If you can't find a time or place to meet your needs, we will be happy to schedule a private session.

As always, your concerns are our concerns. We continue to be available to assist the business community in any way we can.



## Notice: fraudulent UCC filings now criminal

Effective July 1, 2009, it is now a criminal offense to file a fraudulent Uniform Commercial Code (UCC) financing statement.

Act 336 of 2009, passed by the Arkansas General Assembly and signed by the governor on March 10, 2009, makes the first filing of a fraudulent UCC financing statement a Class A misdemeanor. A subsequent offense of fraudulently filing a Uniform

Commercial Code financing statement is a Class D felony.

In addition to criminal penalties, a person aggrieved or damaged by the filing of a Uniform Commercial Code financing statement in violation of the law has a civil cause of action against the defendant for injunctive and other curative relief and may also recover costs equal to or greater than \$10,000.



# NOTARY CORNER

## Be familiar with basic concepts of notarization

When performing the duties of a notary public, there are several phrases that notaries will continually encounter.

These phrases represent concepts at the core of why documents are notarized. The basis for these concepts is detailed in Arkansas law as well as by best practices promoted by experts in the notary field. Listed below are some of the most common and important phrases to which notaries are exposed:

**Personally knows** – Personally knowing someone is defined in Arkansas law as “...having an acquaintance, derived from association with the individual, which establishes the individual’s identity with at least a reasonable certainty.” [A.C.A. 21-14-111]

Simply put, the notary should be able to associate a particular person to a name by which that person is commonly known.

**Proof of identity** – If the notary public does not personally know the person, the notary must rely on some form of evidence that identifies the person’s identity. The best type of identification to rely upon is a government-issued photo identification, such as a driver’s license, passport, or military identification card.

**Unbiased witness** – A notary public should be a disinterested party to the document being notarized. Notaries should also be mindful if the document in question produces a conflict of interest or direct or indirect financial gain for the notary.

**Personally appears** – In most cases, the person whose signature is being notarized must personally appear before the notary. At this point the notary can witness the person signing his/her name.

**Notarizing a document** – The lawful acts of a notary public include taking an acknowledgement, certifying an affidavit, administering oaths and attesting to photocopies. The notary act is completed and memorialized by filling out and attaching the appropriate notary certificate to the document in question.

Questions about any of these concepts, or any other notary questions, may be directed to the Secretary of State’s office at 501-682-3409, toll free 888-233-0325, or online at [www.sos.arkansas.gov](http://www.sos.arkansas.gov).

## Letter demanding corporate meeting minutes, money is fraud

The office of Attorney General Dustin McDaniel recently sent a letter to a California-based company demanding that it abandon a deceptive solicitation which it has mailed to an unknown number of Arkansas businesses.

McDaniel warned Arkansas businesses to beware of this mailing.

The company, identifying itself as “Compliance Services” and also doing business as “Compliance Annual Minutes” or “Corporate Compliance” has recently mailed letters to Arkansas businesses claiming that the business is not in compliance with state law and demanding a payment of \$125 to cure the noncompliance.

The mailing suggests that Arkansas corporations are required by law to file corporate meeting minutes. It also

includes official-looking forms for the recipient to complete and return with the \$125 fee.

“While Arkansas corporations should prepare minutes of annual meetings, Arkansas law does not require that these minutes be filed with the Office of the Secretary of State,” McDaniel said. “There are no official forms, and there are no fees.”

Official corporate minutes are best prepared either by corporate officers or by a business attorney. Any official request or contact from the Secretary of State will contain the State Seal and the name of the Secretary of State. The California company which is sending these solicitations is not related to the Arkansas-based corporation with a similar name.

If corporate consumers receive this solicitation or have any other questions, please contact the Secretary of State’s office at 501-682-1010.

You may also contact the Attorney General’s office via its website, [www.arkansasag.gov](http://www.arkansasag.gov) or by calling 501-682-2007 or 1-800-482-8982.

**Need a speaker  
for your next meeting?**

**Contact**

**Secretary of State  
Business and Commercial  
Services**

**(501) 682-3409  
or 1-888-233-0325**

## Fall notary schedule offers 26 sessions, begins Sept. 9, 2009

Once again our office is preparing to tour the state providing free notary public education. Between September and November we will travel to all corners of the state and everywhere in between.

Check the schedule here to see when we'll be in your town. For your convenience, we offer three registration options: you may register online at [www.sos.arkansas.gov](http://www.sos.arkansas.gov), by e-mail at [jarrod.johnson@sos.arkansas.gov](mailto:jarrod.johnson@sos.arkansas.gov), or by calling our office at 501-682-3409 or toll free, 888-233-0325.

The Secretary of State's office also offers special-request notary seminars for groups of 10 or more. We have provided this training on-site for financial institutions, government agencies and other organizations. To request a seminar at your location, use the contact information above.

**September 9** Little Rock 9 a.m.  
Little Rock 1 p.m.

**September 14** El Dorado 3 p.m.

**September 15** Magnolia 9 a.m.  
Texarkana 1 p.m.

**September 28** Paragould 3 p.m.

**September 29** Jonesboro 9 a.m.  
Searcy 1 p.m.

**October 8** Rogers 3 p.m.

**October 9** Springdale 8:30 a.m.  
Fayetteville 12 p.m.

**October 14** Little Rock 9 a.m.  
Little Rock 1 p.m.

**October 19** Monticello 3 p.m.

**October 20** McGehee 9 a.m.  
Pine Bluff 12 p.m.

**October 27** Blytheville 3 p.m.

**October 28** West Memphis 9 a.m.  
Forrest City 1 p.m.

**November 5** Mountain Home 3:30 p.m.

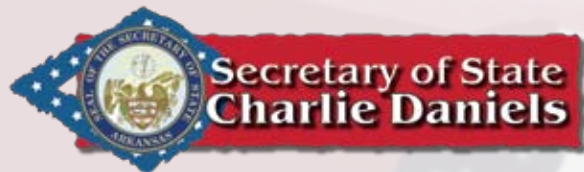
**November 6** Harrison 9 a.m.  
Eureka Springs 1 p.m.

**November 18\*** Little Rock 9 a.m.  
Little Rock 1 p.m.

**November 19** Hope 1 p.m.

**November 20** Hot Springs 11 a.m.

*\*Please note that, due to the Veterans' Day holiday on the second Wednesday of November, that month's regular Little Rock notary classes have been rescheduled for Nov. 18.*



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